

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

JUANA MONTANA-PEREZ, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil No. 3:08-1015
	)	Judge Trauger
DURRETT CHEESE SALES, INC., <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

The Plaintiffs’ Motion For Leave to File Reply (Docket No. 166) is **GRANTED**.

The plaintiffs have filed a Motion To Enter Agreed Judgment Against Defendant Greg Durrett And For Leave to Petition For Attorneys’ Fees and Costs (Docket No. 157), to which defendant Greg Durrett has responded in partial opposition (Docket No. 164), and the plaintiffs have filed their instant Reply.

The parties were able to agree on the filing of an Agreed Order memorializing their settlement and filed a Joint Motion for the entry thereof (Docket No. 160), which the court granted (Docket No. 161). Paragraph 12 of the Agreed Order provides: “Plaintiffs shall be entitled to any costs and fees associated with enforcing any aspect of the settlement agreement in the event of breach by Durrett;” (Docket No. 162 at 6). However, the remedy for the failure of Mr. Durrett to pay the monetary portion of the settlement, which he has failed to do, was the entry of an agreed judgment in the amount of \$75,000. (*Id.* at ¶1, p. 1) Defendant Durrett has agreed to the entry of the judgment but disputes that his failure to pay the monetary portion of the settlement gives rise to an obligation to pay attorney’s fees. The “murkiness” of this issue, even to the plaintiffs, is evidenced by the fact that the plaintiffs have “requested leave to

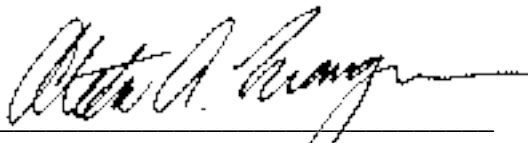
petition” for attorney’s fees and costs, rather than just filed a motion for attorney’s fees and costs.

The court finds that the Agreed Order provision for the payment of attorney’s fees and costs does not apply at this juncture. However, the plaintiffs have made the alternative argument that they should receive attorney’s fees and costs because of Mr. Durrett’s bad faith actions in “stringing them along” with regard to the payment of the monetary judgment, and the court will allow the plaintiffs to move for attorney’s fees and costs on this ground only.

For the reasons expressed herein, the Plaintiffs’ Motion to Enter Agreed Judgment Against Defendant Greg Durrett And For Leave to Petition For Attorneys’ Fees and Costs (Docket No. 157) is **GRANTED**. The plaintiffs shall file a form of proposed Agreed Judgment within five (5) days of the entry of this Order and may file a motion for attorney’s fees and costs based upon defendant Durrett’s bad faith within ten (10) days of the entry of this Order.

It is so **ORDERED**.

ENTER this 3rd day of November 2010.

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ALETA A. TRAUGER  
U.S. District Judge